

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JEREMY SHELTON, and)	
JULIEN SHELTON,)	
)	
Plaintiffs,)	
)	
v.)	
)	
SHA ENT., LLC,)	Case No. CV-20-644-D
HOHM TECH, INC.,)	
INDONESIA CHEMISTRY,)	
)	
Defendants.)	

ORDER

Before the Court is Jeremy and Julien Shelton's Motion for Default Judgment Against Defendant Hohm Tech, Inc. [Doc. No. 32]. The Motion represents that Hohm Tech, Inc. was served in this matter but failed to answer or otherwise plead. The Motion further represents that the CEO of Hohm Tech informed Plaintiff's counsel that Hohm Tech intended to file for bankruptcy.

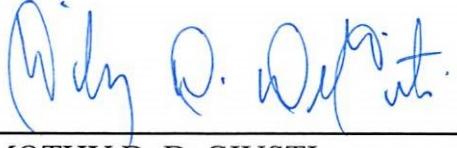
Initially, the Court notes that Plaintiffs have not complied with Fed. R. Civ. P. 55, which sets out a two-step process for obtaining a default judgment. *Williams v. Smithson*, 57 F.3d 1081 (10th Cir. 1995). First, a plaintiff "must apprise the court that the opposing party has failed to plead or otherwise defend by requesting 'by affidavit or otherwise' that the clerk enter default on the docket." *Id.* (quoting Fed.R.Civ.P. 55(a)). Then, "following an entry of default by the clerk, 'the party entitled to a judgment by default shall apply to the court therefor.'" *Id.* (quoting Fed.R.Civ.P. 55(b)(2)). These requirements are "mandatory." *Id.* Here, Plaintiffs have not yet requested that the clerk enter default against

Hohm Tech under Rule 55(a) and their Motion for Default Judgment is therefore premature.

Further, the Court takes judicial notice that Hohm Tech has filed for bankruptcy in the Central District of California. *In re HOHM Tech, Inc.*, 6:21-bk-14150-MH (Bankr. C.D. Cal. July 30, 2021). *See also Hodgson v. Farmington City*, 675 F. App'x 838, 841 (10th Cir. 2017) (unpublished) (explaining that a court may take judicial notice of proceedings in other courts). Accordingly, any proceedings against Hohm Tech must be stayed.

Plaintiffs' Motion for Default Judgment Against Defendant Hohm Tech, Inc. [Doc. No. 32] is DENIED without prejudice and this matter is STAYED with respect to any proceedings against Defendant Hohm Tech, Inc. Additionally, Plaintiffs are ordered to advise the Court within 10 days of the date of this Order as to whether they intend to pursue their claim against Defendant Indonesia Chemistry and if so, what efforts have been made with respect to obtaining service.

IT IS SO ORDERED this 3rd day of December, 2021.



TIMOTHY D. DEGIUSTI
Chief United States District Judge